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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,721	10/20/2005	Martin Brodt	3926.144	7612
41288	7590	02/02/2009	EXAMINER	
PATENT CENTRAL LLC			YANG, JIE	
Stephan A. Pendorf			ART UNIT	
1401 Hollywood Boulevard			PAPER NUMBER	
Hollywood, FL 33020			1793	
MAIL DATE		DELIVERY MODE		
02/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/527,721

Applicant(s)

BRODT ET AL.

Examiner

JIE YANG

Art Unit

1793

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-12.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Roy King/
Supervisory Patent Examiner, Art Unit 1793

JY

Continuation of 7. Note: Claim 13 is cancelled; claim 1 has been amended for including the limitation of cancelled claim 13; and claims 1-12 are pending, wherein claim 1 is an independent claim. Claims 1-12 are rejected for the same reason as recited in the previous office action marked 10/28/2009. Regarding the steps (V) final shaping the heated product of step (IV) and rapidly cooling the trimmed part blank in a hot-forming tool to set the material structure. US'224 teaches sufficiently induction heating the target to pre-selected temperature, then quenching to obtain desired hardening effect (Col.4, line 54 to Col.5, line 20 of US'224), which reads on the heating and rapid cooling limitations in the instant claim. US'224 further teaches during cooling the coolant is rapidly and suddenly applied through nozzles and directed onto the impact beam to quench the same while it is still fixtured or retained in fixture (Col.5, lines 11 to 20 of US'224), which reads on the limitation of rapidly cooling the blank in a hot-forming tool as recited in the instant claim.

Continuation of 11. Claims 1-12 are rejected for the same reason as stated in the previous office action marked 10/28/2009. The Applicants argue Tjoelker et al (US'224) nowhere teach two forming steps, wherein the first forming step forms to a near net shape, followed by a second forming step in which the part is formed to it's final shape. In response: the Examiner notices: Tjoelker et al (US'224) teaches prior to heat treatment, the cold formed beam workpiece is fixtured in a suitable clamping device and the clamping elements allow the respective flange to move only longitudinally, but not vertically or torsionally, to accommodate beam expansion and contraction due to temperature increases and decreases during the induction heat treating process, but prevent significant vertical or torsional distortion (Col.4, lines 27 to 52 of US'224). The clamping device of US'224 is one kind of hot-forming tools because it limits the motion of the working pieces; and the limitations of clamping devices would lead to the press hardening on the working pieces during the temperature increases and decreases as recited in the instant claim 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jie Yang whose telephone number is 571-2701884. The examiner can normally be reached on IFP.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-2721244.
The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.